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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

In the Matter of

Geographic Partitioning
and Spectrum Disaggregation
by 900 MHz Specialized Mobile Radio
Service Major Trading Area Licensees

RM-8887

PR Docket No. 93-144

To: The Commission

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REPLY COMMENTS OF NEXTEL COMMUNICATIONS, INC.

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Dated: October 31, 1996

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REPLY COMMENTS OF NEXTEL COMMUNICATIONS, INC.

I. INTRODUCTION

Pursuant to the October 4, 1996 Public Notice of the Federal Communications Commission ("Commission"),^{1/} Nextel Communications, Inc. ("Nextel") respectfully submits these Reply Comments in response to comments filed on the September 30, 1996 Petition For Rulemaking ("Petition") filed by the American Mobile Telecommunications Association ("AMTA"). Nextel and eight other parties filed comments on the Petition, and only one of those parties, the Rural Telephone Group ("RTG"), opposed it.

Nextel submits these Reply Comments to respond to the Comments of RTG and to further support AMTA's Petition. The ability to partition and disaggregate Specialized Mobile Radio ("SMR") licenses provides licensees significant flexibility, thereby allowing them to manage their spectrum blocks in the most effective

^{1/} Public Notice, "American Mobile Telecommunications Association, Inc. Files Petition For RuleMaking To Expand Geographic Partitioning And Spectrum Disaggregation Provisions For 900 MHz SMR," DA 96-1654, released October 4, 1996.

and efficient manner.^{2/} This flexibility, moreover, should ensure the entry of more participants into the SMR marketplace, and thereby further Congress' objectives in Section 309(j) of the Communications Act to promote opportunities for a wider variety of applicants. The RTC's Comments in opposition to AMTA's Petition are misplaced, and seek to restrict rather than promote competition in rural areas. Therefore, based upon the evidence presented in the comments herein, the Commission should initiate the proposed rule making and expeditiously adopt the rules proposed by AMTA.

II. DISCUSSION

A. The Comments Evidenced Broad Support For AMTA's Petition

Of the eight parties filing comments, seven supported AMTA's Petition as a positive step toward enhancing competition in the 900 MHz SMR industry.^{3/} As Fisher Communications, Inc. ("Fisher") stated, the proposed rules would "create valuable additional opportunities for participation" and would allow licensees to "develop niche markets and innovative wireless service offerings."^{4/} Just as the ability to disaggregate and partition will have beneficial competitive impacts in the 800 MHz SMR

^{2/} Nextel's supports the use of disaggregation and partitioning of SMR licenses in both the 900 MHz SMR service as proposed by AMTA, and in the 800 MHz SMR service as proposed by the Commission in its Second Further Notice Of Proposed Rule Making in PR Docket No. 93-144. See First Report and Order, Eighth Report and Order, and Second Further Notice Of Proposed Rule Making, 11 FCC Rcd 1463 (1995) at para. 259-268.

^{3/} See, e.g., Industrial Electronics and Communications, Inc. at p. 2.

^{4/} Comments of Fisher at p. 3.

industry and in Personal Communications Services, Motorola, Inc. argued, the use of partitioning and disaggregation by all 900 MHz SMR licensees will promote competition, increase licensee flexibility, and allow licensees to put their licensed service areas to their most efficient and effective use.^{5/}

In light of this industry-wide agreement on the positive impact of AMTA's proposals, the Commission should expeditiously initiate a rule making to authorize disaggregation and partitioning of 900 MHz MTA licenses. There are numerous advantages to permitting the spectrum disaggregation and geographic partitioning, including the fact that 900 MHz SMR MTA licensees would benefit from the flexibility and wide dissemination of licenses. Licensees would have the ability to more clearly define their own service areas, a wider variety of providers could offer service to the public, and all licensees would have significant flexibility to create and provide efficient and effective SMR services.

B. The Lone Dissenter's Claims Are Misplaced And Should Not Prevent the Commission's Initiation of a Rule Making

RTC, the only party opposing AMTA's Petition, claims that the use of spectrum disaggregation and geographic partitioning by parties other than rural telephone companies is not in the public interest.^{6/} RTC's claims, however, are misplaced. First,

^{5/} Comments of Motorola, Inc. at pp. 4-5.

^{6/} Although opposing AMTA's Petition, it should be noted that RTC did not oppose the Commission's proposal to allow partitioning and disaggregation of 800 MHz SMR EA licenses. For the same reasons that AMTA claims partitioning and disaggregation are beneficial to the 900 MHz SMR industry, Nextel supports their use in the 800 MHz SMR industry.

allowing all 900 MHz SMR MTA licensees to partition and disaggregate their licenses does not contravene the Communications Act.^{7/} Rural telephone companies are not prohibited from participating in the spectrum disaggregation and geographic partitioning proposed by AMTA. On the contrary, they will continue to have every opportunity to participate in the process and presumably provide SMR services to rural customers.

Second, rural telephone companies are not -- as implied by RTC -- the only telecommunications companies with "existing infrastructure" in rural areas.^{8/} There currently are numerous SMR providers operating in rural areas providing significant service to rural users. Many of these rural SMR providers may not have been in a position to bid on an entire MTA license, or perhaps, serving an entire MTA was not in their business plan. Like rural telephone companies, these rural SMR operators are in a position to provide SMR services to rural areas; they are not, as claimed by RTC, "less qualified" to provide that service;^{9/} and they inject competition into the rural SMR market that might not otherwise occur if only rural telephone companies are eligible for partitioned or disaggregated SMR licenses. Therefore, all of RTC's claims are misplaced, and are nothing more than an attempt to limit any potential competition in the rural SMR marketplace.

^{7/} See Comments of RTC at p. 2.

^{8/} *Id.* at p. 3.

^{9/} See *Id.* at p. 3.

Finally, by extending the partitioning and disaggregation ability to all licensees, the Commission in not eliminating the rural telephone companies' only remaining benefit.^{10/} Rural telephone companies will continue to be eligible for partitioning and disaggregation, and if they are -- as RTC claims -- the best-suited participants to serve rural America, then they should be in a good position to obtain partitioned or disaggregated licenses.

Rural telephone companies, moreover, will presumably continue to qualify as small businesses under the Commission's auction rules, thereby making them eligible for all of the auction benefits provided small businesses. In light of this, AMTA's proposal hardly "bankrupts" the right of rural telephone companies to provide SMR service.^{11/} Rather, the proposal ensures that all interested companies have the opportunity to provide SMR services to the public -- both rural and urban.

III. CONCLUSION

AMTA's Petition provides an opportunity for licensees to increase the efficiency, effectiveness and competitiveness of their 900 MHz SMR services. It would ensure that all interested parties are allowed to participate in the 900 MHz SMR industry and would assist those parties in making the highest and best use of the 900 MHz SMR spectrum. For these reasons, Nextel supports AMTA's Petition, asks that the Commission reject the misplaced arguments

^{10/} See *Id.* at p. 6.

^{11/} See *Id.* at p. 7.

of RTC and initiate the proposed rule making to expeditiously adopt the rules proposed by AMTA.

Respectfully submitted,
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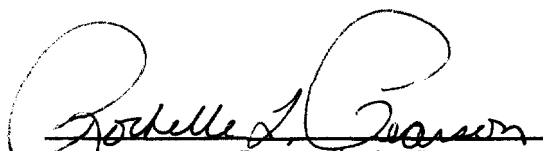
CERTIFICATE OF SERVICE

I, Rochelle L. Pearson, hereby certify that on this 31st day of October 1996, caused a copy of the attached Reply Comments of Nextel Communications, Inc. to be served by hand delivery or first-class mail, postage prepaid to the following:

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